

Subj

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

29 April 1974

Honorable William S. Moorhead, Chairman
Foreign Operations and Government Information Subcommittee
Committee on Government Operations
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in reply to your letter dated 11 April 1974 requesting a statement for the record on H.R. 12206, "To amend title 5, United States Code, to provide that persons be apprised of records concerning them which are maintained by Government agencies," and on related bills H.R. 13303 and H.R. 13872.

H.R. 12206 would add a new section 552a to title 5 of the United States Code which would:

1. preclude an agency from providing any information about an individual to any other agency unless the individual concerned is notified (paragraph (a)(1));
2. require an agency to maintain a record of the names and addresses of all persons to whom such information was provided (paragraph (a)(3));
3. permit any person to inspect his own record, to have copies made thereof, and to supplement and correct the record (paragraphs (a)(4) and (5));
4. require an agency to remove erroneous information of any kind and notify all agencies to whom the information was disseminated (paragraph (a)(6));
5. exempt records that are specifically required by Executive order to be kept secret in the interest of the national defense and foreign policy (paragraph (b)(1));

6. require an annual report to Congress on the number of records so exempted (paragraph (c)); and

7. provide "Nothing in this section shall be construed to permit transfer or similar distribution of any information deemed confidential by other statutes." (paragraph (g)).

While the other two bills are substantially similar to H.R. 12206, H.R. 13872 also establishes a Federal Privacy Board to oversee the implementation of the legislation and narrows the exemptions for records kept secret for national defense and foreign policy reasons so that the exemption applies only if disclosure would endanger military plans, reveal military weaponry, or endanger the life of any person engaged in foreign intelligence gathering operations of the United States Government.

The National Security Act of 1947 provides in part:

"(d) For the purpose of coordinating the intelligence activities of the several Government departments and agencies in the interest of national security, it shall be the duty of the Agency, under the direction of the National Security Council--

. . .

(3) to correlate and evaluate intelligence relating to the national security, and provide for the appropriate dissemination of such intelligence within the Government using where appropriate existing agencies and facilities: . . ." (50 U.S.C. 403(d)(3)).

Under this provision it is the statutory responsibility of this Agency to disseminate to other agencies foreign intelligence information on individuals and to maintain related records. As currently written the proposed legislation extends to all persons regardless of citizenship or domicile and would appear to apply to such dissemination and records. It is my hope that you would agree that the dissemination of foreign intelligence information and related records should be outside of the scope of the proposed legislation.

The National Security Act of 1947 also provides in part that:

"(d)(3) . . . And provided further, That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure; . . . " id

This language is viewed as explicit statutory authority for the security classification of information relating to intelligence sources and methods utilized by this Agency in connection with its foreign intelligence responsibilities. Similar explicit statutory authority exists with respect to Communications Intelligence (18 U.S.C. 798) and atomic energy Restricted Data (42 U.S.C. 2162). A paramount consideration is to protect lives, as suggested in H.R. 13872, but it is also exceedingly important that sensitive information vital to our national security not be compromised.

In the interest of resolving any possible statutory conflict, the proposed legislation should specifically exempt records protected from disclosure by statute. Moreover, since the mission of this Agency exclusively relates to the field of foreign intelligence and our records pertain to the fulfillment of that function, it is requested that this Agency be specifically exempted from the proposed legislation. Recommended language in the case of H.R. 12206 is enclosed.

Due to the deadline requested, this report was discussed in general terms with the Office of Management and Budget but was not formally cleared.

Sincerely,

SIGNED

W. E. Colby
Director

H. R. 12206

Insert at page 3, line 19, after the word "specifically" the words:

"protected by or pursuant to statute"

Insert at page 4, line 4, a new subsection:

"(3) maintained by the Central Intelligence Agency."